IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 12855 of 2006(E)

PETITIONER:

CHANDU, LATHA BHAVAN, OORUPOIKA,
EDAKKODE VILLAGE, CHIRAYINKIL TALUK.

BY ADV. SRI.V.CHITAMBARESH
ADV. SRI. KRISHNA MANI

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE TAHSILDAR, TALUK OFFICE,
CHIRAYINKEEZHU.

3. THE VILLAGE OFFICER,
EDAKKODE VILLAGE OFFICE, EDAKKODE VILLAGE,
CHIRAYINKEEZHU TALUK.

ADDL. R4 IMPLEADED

4. THANKAPPAN S/O. VELUKUTTY,
AGED 57 YEARS, THULAYIL VEEDU,
MELATTUMOOZHI, KARIMKUTTIKARA P.O.,
VAMANAPURAM VILLAGE, NEDUMANGAD TALUK

(AS PER ORDER DATED 29.8.06 IN I.A.11827/06)

BY ADV. SRI.K.SATHEESH KUMAR
GOVERNMENT PLEADER SRI. V.T.K. MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF PLAINT DATED 23/3/05 IN O.S.207/05 BEFORE MUNSIFF'S COURT, ATTINGAL.

EXT.P2: TRUE COPY OF THE WRITTEN STATEMENT DATED 25.10.05.

EXT.P3: TRUE COPY OF LEASE ARRANGEMENT DATED 10.5.05.

EXT.P4: TRUE COPY OF ORDER DATED 12.5.05.

EXT.P5: TRUE COPY OF LICENCE DATED 12.5.05.

EXT.P6: TRUE COPY OF APPLICATION DATED 25.5.05.

EXT.P7: TRUE COPY OF OBJECTION TO EXT.P6 DATED 18.8.05.

EXT.P8: TRUE COPY OF APPLICATION I.A.1086/05 DATED 25.5.05 FILED BEFORE MUNSIFF'S COURT, ATTINGAL.

EXT.P9: TRUE COPY OF ORDER DATED 3.3.06 IN I.A.1086/05 DATED 25.5.05 BEFORE MUNSIFF COURT, ATTINGAL.

/TRUE COPY/

PA TO JUDGE

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO. 12855 OF 2006

DATED THIS THE 18th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the plaintiff in O.S.207/05 on the file of Munsiff Court, Attingal. Petitioner filed an application for an interlocutory order of mandatory injunction. It was dismissed by learned Munsiff under Ext.P9 order. Eventhough it is an appealable order, petitioner did not file an appeal. Instead this petition is filed under Article 227 of Constitution of India.

2. When petitioner has a substantive right of appeal against Ext.P9 order, the extraordinary jurisdiction of this Court under Article 227 of Constitution of India cannot be invoked.

This Petition is dismissed. Like any other interlocutory order Munsiff is to dispose the suit untrammeled by any observation contained in Ext.P9 order.

M.SASIDHARAN NAMBIAR,JUDGE

Acd